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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,147	05/05/2005	Motoki Kato	255063US6PCT	8248
22850	7590	07/23/2009	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			HARVEY, DAVID E	
			ART UNIT	PAPER NUMBER
			2621	
			NOTIFICATION DATE	DELIVERY MODE
			07/23/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/500,147	<b>Applicant(s)</b> KATO, MOTOKI	
	<b>Examiner</b> DAVID E. HARVEY	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15, 16, 34, 35, 38 and 39 is/are allowed.
- 6) ☒ Claim(s) 1-5, 9-14, 17-23, 28-33, 36 and 37 is/are rejected.
- 7) ☒ Claim(s) 6-8 and 24-27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/9/2004</u> .  | 6) <input type="checkbox"/> Other: _____                          |

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**1. For the record, the examiner notes that the recited “program storing medium” is:**

**A) Illustrated in Figure 26; and**

**B) Described in the paragraph that begins in the last two lines of page 86.**

**2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.**

**3. The following is a quotation of the second paragraph of 35 U.S.C. 112:**

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**4. Claims 13, 17, 32, and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

**A)** In line 3 of claim 13 sets forth a “*program comprising*” the active steps of manipulation that are set forth in lines 4-13 of said claim. This recitation appears to be misdescriptive because a program, per se, cannot comprise active steps of manipulation; i.e., such functional steps are performed by a computer/device when the program is executed by said computer/device. Clarification is required. Similar clarification is needed with respect to: line 7 of claim 17; line 4 of claim 32; line 7 of claim 36.

**5. 35 U.S.C. 101 reads as follows:**

**Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.**

**6. Claims 13, 14, 17, 18, 32, 33, 36 and 37 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

**A) With respect to claims 13, 17, 32, and 36:**

Each of claims 13, 17, 32, and 36 are directed to a “program storing medium” with a “computer readable program” recorded thereon, however, each of the claims lacks recitation of functionality; e.g., that the recorded “program”, when executed by a computer, causes the computer to perform active steps of manipulation. That is, “computer readable programs”, per se, constitute non-functional descriptive material, i.e., non-statutory subject matter, even when recorded on a statutory recording medium.

**B) With respect to claims 14, 18, 33, and 37:**

Each of claims 13, 17, 32, and 36 are directed to a “computer readable program”, per se, which constitutes non-functional descriptive material (i.e., non-statutory subject matter); e.g., each of these claims lacks the recitation of a statutory “recording medium”.

7. **The following references are noted:**

**A) With respect to the “prior art” of Tsuga et al. (US #5,895,124):**

Tsuga et al has been cited because, as evidenced in Figure 11B, it describes a system:

A) In which a ***plurality of AV streams*** (e.g., @ VOB#5, VOB#6, VOB#7) are ***encoded*** and stored on a video recording medium so as ***to form a plurality of reproduction paths*** during playback; and

B) In which ***managing information***, comprised multiangle information, is used to indicate where and when (i.e., at which address locations) synchronized transitions/jumps between the respective AV streams are permitted to occur.

[Note: lines 56-67 of column 14; and lines 11-22 of column 15]

**B) With respect to the “prior art” of Kikichi et al. (US #5,870,523):**

Kikichi et al has been cited because, as evidenced in Figures 27-34, it describes a system:

A) In which a ***plurality of AV streams*** are ***encoded*** and stored on a video recording medium so as ***to form a plurality of reproduction paths*** (e.g., @ Fig 34) during playback; and

B) In which ***managing information***, comprised multiangle information (e.g., @ Figures 27-33), is used to indicate where and when (i.e., at which address locations) synchronized transitions/jumps between the respective AV streams are permitted to occur.

[Note: lines 5-17 of column 19; and lines 23-26 of column 20]

**C) With respect to the *intervening*<sup>1</sup> “prior art” of Seo et al. (US #2003/0235406):**

Seo et al has been cited because, as evidenced in Figures 4B, it describes a system:

A) In which a **plurality of AV streams** (e.g., @ Clip File 1, Clip File 2, Clip File 3) are **encoded** and stored on a video recording medium so as **to form a plurality of reproduction paths** during playback; and

B) In which **managing information**, including respective entry point map data for each clip/path, is used to indicate where and when (i.e., at which address locations) synchronized transitions/jumps between the respective AV streams are permitted to occur.

[e.g., Note: paragraphs 0009, 0025-0029, 0041, 0049-0052, 0058, 0061, 0062, 0069, 0070, 0071, 0074, and 0079]

**D) With respect to the “prior art” of Kanda (WO98/24091):**

PCT application #WO98/24091 to Kanda qualifies as “prior art” under section 102(b). The examiner notes that the reference is not in the English language. However, US Patent #6,234,335 to Kanda, while not “prior art”, is the US national stage of the above noted PCT and, as such, represents a certified translation of the above noted PCT. Thus, as evidenced in column 26 of US Patent #6,234,335 to Kanda, the prior art PCT publication #WO98/24091 to Kanda provided the following teachings:

*“The CPU 303 allocates a time code to each video frame of the video signal to be recorded based on the time coded supplied from a time-code generating unit 313, and also allocates a recording address to each video frame of the video signal. Then the CPU 303 stores the allocated time code and recording address as a corresponding table therein.”*

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<sup>1</sup> US Patent publication #2003/023406 to Seo et al. was filed on 6/11/2003 and, as such, constitutes intervening prior art; i.e., it was filed prior to the effective filing date of the instant application but subsequent to the claims foreign priority date(s). The following is noted:

*The foreign priority papers cannot be relied upon to avoid consideration of such intervening prior art because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.*

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*On recording, the CPU 303 specifies the recording address and the recording command to the hard-disk drive 300. The hard-disk drive 300 records a video signal to the specified recording address. On the other hand, on reproducing, if the video signal to be read is specified with the time code by the computer 2, the CPU 303 refers to the corresponding table described above to determine that the video frame of the specified time code is recorded where (that is, determines the recording address). Then the CPU 303 specifies the determined recording address together with a reproducing command. Accordingly, the hard-disk drive 300 reproduces the video signal from the specified address and reproduces the video signal requested by the computer 2. In this manner, the CPU 303 stores the correspondence relation between the time code and the recording address as a corresponding table, so that the specified reproducing position can be rapidly reproduced even if the reproducing position is specified with the time code by the computer 2."*

**8. Claims 8-10 and 26-29 are objected to because of the following informalities:**

- A) Claim 8 should depend from claim 7 (not 4) given that claim 7 (not 4) provides proper antecedent basis for recitations therein.
- B) Claim 9 should depend from claim 5 (not 2) given that claim 5 (not 2) provides proper antecedent basis for recitations therein
- C) Claim 10 should depend from claim 5 (not 2) given that claim 5 (not 2) provides proper antecedent basis for recitations therein.
- D) Claim 26 should depend from claim 23 (not 22) given that claim 23 (not 22) provides proper antecedent basis for recitations therein.
- E) Claim 28 should depend from claim 23 (not 20) given that claim 23 (not 20) provides proper antecedent basis for recitations therein.
- F) Claim 29 should depend from claim 23 (not 20) given that claim 23 (not 20) provides proper antecedent basis for recitations therein.

Appropriate correction is required

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al.

A) The showing of Hamasaka et al.:

1) As is illustrated in Figure 18, Hamasaka et al describes a system for:

a) **Encoding** [via an **encoding means** (e.g., @ 1904)] and recording [via a **recording means** (e.g., @ 1911)] A/V data streams onto a recording medium (e.g., @ 100); and

b) Playing [via a **playing means** (e.g., @ 1911)] and **Decoding** [via a **decoding means** (e.g., @ 1908)] selected ones of the recorded A/V data streams obtained from the recording medium (e.g., @ 100); and

2) As described, **ones of the recorded/played A/V data streams represent a plurality of reproduction paths** (e.g., A/V streams representing multiple parallel views) [Note lines 52-59 of column 14];



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3) As described, the system “generates” [i.e., inherently via a **management information generating means**]<sup>2</sup>, records, and plays various forms of **management information** along with the A/V streams wherein this management information include **entry point tables** (e.g., @ Figure 14), wherein the entry point tables include:

a) “**Map information**” identifying the position of various entry points within each of the recorded/played A/V data streams; and

b) “**Reproduction managing information**”, i.e., data fields/flags associated with each of the entry points for classifying each of the entry points (e.g., @ Figure 14), wherein:

1. One of these data fields/flag, i.e., the “Multi\_View” filed/flag (e.g., of Figures 14 and 15), identify ones of the entry points that pertain to **change points** between the A/V streams that represent of the multi-views; i.e., and, as such, those of the entry points in which a change between the multi-view A/V streams is “**permitted**”.

[Note lines 22-26 of column 15; lines 45-57 of column 15; and lines 30-55 of column 22]

wherein, as shown in Figure 15 [note lines 23-30 of column 16], separate entry table can be generated and stored/played for each/**all** of the A/V streams including, i.e., as shown in Figure 16 [note lines 40-45 of column 16], each of the multi-view A/V streams.

11. Claim 2 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 1. Additionally:

The examiner contends that the recited correlation is provided indirectly [note lines 42-64 of column 6; lines 60-64 of column 15; and lines 30-45 of column 22]

12. Claims 3-5 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 2. Additionally:

As addressed above:

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<sup>2</sup> The fact that the system is described as recording such management information inherently requires the “means” for generating/providing the management information that is recorded.

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As shown in Figure 15 [note lines 23-30 of column 16], separate entry table can be generated and stored/played for each/*all* of the A/V streams including, i.e., as shown in Figure 16 [note lines 40-45 of column 16], each of the multi-view A/V streams.

**13. Claim 9 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 2. Additionally:**

It is noted that the A/V streams are necessarily multiplexed (i.e., "interleaved") prior to recording.

**14. Claims 10 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 2.**

**15. Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 2. Additionally:**

As addressed above:

1. One of these data fields/flag, i.e., the "Multi\_View" filed/flag (e.g., of Figures 14 and 15), identify ones of the entry points that pertain to ***change points*** between the A/V streams that represent of the multi-views; i.e., and, as such, those of the entry points in which a change between the multi-view A/V streams is "***permitted***".

**16. Claim 12 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 1.**

**17. Claim 13 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 1.**

**18.**

**19. Claim 14 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 1. Additionally:**

It is noted that the apparatus is CPU controlled and, thereby, program controlled/driven

**20. Claim 19 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 1.**

**21. Claim 20 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 19. Additionally:**

The examiner contends that the recited correlation is provided indirectly [note lines 42-64 of column 6; lines 60-64 of column 15; and lines 30-45 of column 22]

**22. Claims 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 20. Additionally:**

As disclosed in Hamasaka et al., the entry table may be generated as single table or as separate tables [note lines 20-42 of column 16]

**23. Claim 28 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 20. Additionally:**

It is noted that the A/V streams are necessarily multiplexed (i.e., "interleaved") prior to recording.

**24. Claims 29 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 20.**

**25. Claim 30 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 19. Additionally:**

As addressed above:

1. One of these data fields/flag, i.e., the "Multi\_View" filed/flag (e.g., of Figures 14 and 15), identify ones of the entry points that pertain to **change points** between the A/V streams that represent of the multi-views; i.e., and, as such,

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those of the entry points in which a change between the multi-view A/V streams is "***permitted***".

**26. Claim 31 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent #7,356,247 to Hamasaka et al. for the same reasons set forth above with respect to claim 1.**

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27. Claims 6, 7, and 24-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

28. Claims 15, 16, 34, 35, 38, and 39 are allowed.

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29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID E. HARVEY whose telephone number is (571) 272-7345. The examiner can normally be reached on M-F from 6:00AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Marsh D. Banks-Harold, can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DAVID E HARVEY/

Primary Examiner, Art Unit 2621

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